

1 ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP
JULIE Z. KIMBALL, State Bar No. 252449
2 *jkimball@elkinskalt.com*
LEANNE O. VANECEK, State Bar No. 279317
3 *lvanecek@elkinskalt.com*
2049 Century Park East, Suite 2700
4 Los Angeles, California 90067-3202
Telephone: 310.746.4400
5 Facsimile: 310.746.4499

6 Attorneys for Plaintiff

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
10

11 DAVID A. POMS, an individual,
12 Plaintiff,

13 v.

14 TARA E. QUINN, an individual,
15 Defendant.
16

CASE No. 2:18-cv-09393

COMPLAINT FOR:

1. Violation of Computer Fraud and Abuse Act Under 18 U.S.C. Section 1030;
2. Violation of California Penal Code Section 502;
3. Invasion of California Constitutional Right to Privacy; and
4. Conversion

17 DEMAND FOR JURY TRIAL
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ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP
2049 Century Park East, Suite 2700
Los Angeles, California 90067-3202
Telephone: 310.746.4400 • Facsimile: 310.746.4499

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1 Plaintiff David A. Poms alleges against Defendant Tara E. Quinn as follows:

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3 **INTRODUCTION**

4 1. In the fall of 2015, Plaintiff David A. Poms invited Defendant Tara E.
5 Quinn (aka Tara Quinn, Tara Garmany, Tara Allen, and Tara Timmerman) to live
6 with him in a home owned by the David A. Poms Family Trust. Defendant was not
7 authorized to use Mr. Poms' computer, mobile phone, tablet, or any other electronic
8 device that belonged to Mr. Poms.

9 2. On October 1, 2018, Defendant ended her relationship with Mr. Poms,
10 but refused to leave his home. Instead, she changed the locks, denying Mr. Poms
11 entrance to his home.

12 3. Subsequently, Mr. Poms discovered that Defendant had been accessing
13 his computer, mobile phone, and tablet without his knowledge or permission for
14 over a year, and that she had reviewed his personal and business emails and text
15 messages without authorization.

16 4. Mr. Poms brings this action to prevent any dissemination of the
17 information that Defendant unlawfully accessed. He also seeks to recover for
18 damage that she has done to his personal belongings while she has denied him
19 possession of his home.

20
21 **THE PARTIES**

22 5. Plaintiff is an individual. He is, and at all times relevant was, a citizen
23 of California residing in the County of Los Angeles.

24 6. Defendant is an individual. She is, and at all times relevant was, a
25 citizen of California residing in the County of Los Angeles.

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JURISDICTION AND VENUE

7. This action is based on, and seeks to redress violations of, the Computer Fraud and Abuse Act, 18 U.S.C. § 1030. Accordingly, the Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that this action arises under the laws of the United States, and has supplemental jurisdiction over the state law claims.

8. Venue in this judicial district is proper under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district and the defendant is a resident of California and a resident of this judicial district.

FACTS COMMON TO ALL CAUSES OF ACTION

9. In 2012, the David A. Poms Family Trust (“Family Trust”) purchased 29751 Pacific Coast Highway, Malibu, California 90265 (the “Residence”) as the primary residence for Mr. Poms. The Family Trust began renovations on the Residence in 2014. Most of the remodel was completed before Mr. Poms met Defendant in June or July of 2014.

10. In about October 2015, Mr. Poms orally invited Defendant to live with him at the Residence.

11. Mr. Poms kept a desktop computer (which he uses primarily for business), a mobile phone, and a tablet (together, the “Devices”) at the Residence during the time that Defendant lived there. Defendant had her own laptop and mobile phone.

12. Mr. Poms told Defendant that the Devices were off limits to her, and that he used them for his business and personal correspondence.

13. Mr. Poms advised Defendant that the desktop computer, in particular, was not to be used by her. Defendant disclaimed any interest in or reason for using the desktop computer because she owned a laptop computer of her own. In fact,

1 Defendant professed an inability to use PCs at all, stating that she was “a MAC
2 person.”

3 14. Furthermore, Mr. Poms never gave Defendant permission to access his
4 business or personal email accounts. Nor would he, as his email accounts contain
5 data that is highly confidential. It includes correspondence relating to his business
6 and professional activities, including his participation as a Director on several
7 boards.

8 15. On the morning of October 1, 2018, as Mr. Poms left the Residence for
9 a business trip, a process server followed him to the airport and handed him an
10 eleven-page letter from Defendant’s counsel, threatening to ruin him professionally
11 if he did not give Defendant his house and money.

12 16. When Mr. Poms returned from his business trip, he was locked out of
13 his own home. Defendant changed the locks of the Residence and disabled the
14 Hikvision digital surveillance system (“Hikvision Computer”) protecting it. She
15 refuses to leave in violation of California Penal Code sections 602 and 602.5.

16 17. Mr. Poms later learned that Defendant had, directly or indirectly,
17 sabotaged the DVR Recorder that is part of the Hikvision Computer and forcibly
18 removed the two hard drives contained therein. The hard drives she removed are
19 missing.

20 18. Defendant has destroyed or disposed of other of Mr. Poms’ personal
21 possessions in the days since October 1, 2018.

22 19. Mr. Poms has also discovered, through forensic analysis of his desktop
23 computer, that Defendant spent hours accessing confidential files on his desktop
24 computer while he was out of town or at his Woodland Hills office. She seeks to
25 use them to extort money from him.

26 20. On information and belief, Defendant also accessed the other Devices
27 without Mr. Poms’ permission and took his confidential data for her own purposes.
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21. Mr. Poms has spent more than \$5,000, and expects to spend more, to respond to Defendant's offenses and assess and repair the damage caused by Defendant's unlawful access of the Devices.

FIRST CLAIM FOR RELIEF

Violation of Computer Fraud and Abuse Act Under 18 U.S.C. § 1030

(By David Poms Against Tara Quinn)

22. Plaintiff realleges and incorporates by reference Paragraphs 1 through 21 of this Complaint.

23. Mr. Poms routinely kept the Devices and Hikvision Computer at the Residence. Each of the Devices and the Hikvision Computer was and is Internet enabled, and was and is used in or affects interstate commerce or communication. Each of the Devices constitutes both a "computer" and "protected computer" under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(e)(1) and (e)(2)(B), respectively.

24. Defendant was not authorized to access the Devices or Hikvision Computer.

25. Mr. Poms is informed and believes, and thereon alleges, that Defendant intentionally accessed the Devices and Hikvision Computer without authorization and obtained information from the Devices in violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(2)(C).

26. Mr. Poms is informed and believes, and thereon alleges, that Defendant intentionally accessed the Devices and Hikvision Computer without authorization, and as a result caused damage in violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(b).

27. Defendant's conduct caused Mr. Poms to suffer a loss of at least \$5,000.

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1 28. Under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030(g), Mr.
2 Poms is entitled to an injunction, damages, and other legal and equitable relief as
3 prayed for in this Complaint.

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5 **SECOND CLAIM FOR RELIEF**

6 **Violation of California Penal Code Section 502**

7 **(By David Poms Against Tara Quinn)**

8 29. Plaintiff realleges and incorporates by reference Paragraphs 1
9 through 28 of this Complaint.

10 30. The Devices and Hikvision Computer each constitute a computer,
11 computer system, and/or computer network for the purposes of California Penal
12 Code § 502.

13 31. Each of the Devices and Hikvision Computer also connects to a
14 computer network or computer system as those terms are defined in California Penal
15 Code § 502.

16 32. Each of the Devices and Hikvision Computer is capable of accessing
17 computer services as that term is defined in California Penal Code § 502.

18 33. Mr. Poms is informed and believes, and on that basis alleges, that
19 Defendant knowingly and without permission altered, damaged, deleted, destroyed
20 or otherwise used the Devices and Hikvision Computer, and the data contained
21 thereon, to (A) devise or execute a scheme or artifice to defraud, deceive, or extort
22 Mr. Poms out of his assets, including his money and possession of the Residence,
23 and/or to (B) wrongfully control or obtain money, property, or data, including but
24 not limited to Mr. Poms' money and possession of the Residence, in violation of
25 California Penal Code § 502(c)(1).

26 34. Mr. Poms is informed and believes, and on that basis alleges, that
27 Defendant knowingly accessed and without permission took, copied, or used data
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1 from the Devices and Hikvision Computer that belongs to Mr. Poms in violation of
2 California Penal Code § 502(c)(2).

3 35. Mr. Poms is informed and believes, and on that basis alleges, that
4 Defendant knowingly and without permission accessed and used his electronic mail
5 in violation of California Penal Code § 502(c)(3).

6 36. Mr. Poms is informed and believes, and on that basis alleges, that
7 Defendant knowingly and without permission accessed the Devices and Hikvision
8 Computer in violation of California Penal Code § 502(c)(7).

9 37. These violations have damaged Mr. Poms, and he is entitled to an
10 injunction, compensatory and punitive damages, attorneys' fees, and other legal and
11 equitable relief as prayed for in this Complaint.

12 38. Mr. Poms alleges that Defendant's conduct alleged above was
13 undertaken with the intent to injure Mr. Poms or gain an advantage in potential
14 litigation against Mr. Poms, and constitutes clear and convincing evidence of
15 outrageous, oppressive, and malicious conduct that entitles Mr. Poms to an award of
16 punitive damages.

17 **THIRD CLAIM FOR RELIEF**

18 **Invasion of California Constitutional Right to Privacy**

19 **(By David Poms Against Tara Quinn)**

20 39. Plaintiff realleges and incorporates by reference Paragraphs 1
21 through 38 of this Complaint.

22 40. Mr. Poms has a constitutionally protected right to privacy guaranteed
23 by the California Constitution, Article I, Section 1.

24 41. On information and belief, Defendant accessed, without permission,
25 Mr. Poms' electronic mail and text messages that were not directed to her.

26 42. Mr. Poms has a legally protected privacy interest as against Defendant
27 in his electronic mail and text messages not directed to her. Specifically, Mr. Poms
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1 has both a legally protected interest in precluding the dissemination or misuse of
 2 sensitive and confidential information (“informational privacy”), and a legally
 3 protected interest in making intimate personal decisions or conducting personal
 4 activities without observation, intrusion, or interference (“autonomy privacy”).

5 43. Mr. Poms has a reasonable expectation of both informational and
 6 autonomy privacy in his electronic mail and text messages (the “Data”) against
 7 Defendant because (1) the Data was not directed to, sent to, or shared with
 8 Defendant; and (2) the Data was contained in the Devices, which Defendant was not
 9 authorized to access.

10 44. Defendant’s conduct was highly offensive and a serious invasion of Mr.
 11 Poms’ privacy in part because it was done in connection with an effort to extort his
 12 home and money. On information and belief, she surreptitiously accessed,
 13 reviewed, and used Mr. Poms’ electronic mail and text messages in order to gain an
 14 advantage over him.

15 45. Mr. Poms has been damaged by Defendant’s conduct, and is entitled to
 16 an injunction, compensatory and punitive damages, and other legal and equitable
 17 relief as prayed in this Complaint.

18 46. Mr. Poms alleges that Defendant’s conduct alleged above was
 19 undertaken with the intent to injure Mr. Poms or gain a financial advantage against
 20 Mr. Poms, and constitutes clear and convincing evidence of outrageous, oppressive,
 21 and malicious conduct that entitles Mr. Poms to an award of punitive damages.

22 **FOURTH CLAIM FOR RELIEF**

23 **Conversion**

24 **(By David Poms Against Tara Quinn)**

25 47. Plaintiff realleges and incorporates by reference Paragraphs 1
 26 through 46 of this Complaint.
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1 48. Mr. Poms owns the Hikvision Computer, a camera security system that
2 was installed at the Residence in or about 2016. This Wi-Fi enabled system
3 included cameras, cables, and a DVR Recorder that included 16 TeraByte hard
4 drives.

5 49. After Mr. Poms left the Residence on October 1, 2018, Defendant shut
6 down and disconnected this camera security system.

7 50. On October 26, 2018, Mr. Poms discovered that Defendant had
8 damaged the DVR Recorder and forcibly removed two hard drives from the security
9 system, necessitating the replacement of the DVR Recorder and hard drives, among
10 other repairs, causing thousands of dollars of damage to Mr. Poms. The hard drives
11 are still missing.

12 51. On information and belief, Defendant has destroyed or disposed of
13 other of Mr. Poms' personal possessions in the days since October 1, 2018. Mr.
14 Poms is not currently aware of the extent of Defendant's activities in this regard.

15 52. Mr. Poms has been damaged as a result.

16 53. Mr. Poms is entitled to an injunction and compensatory damages.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. An injunction barring Defendant from engaging in any further wrongful conduct;
2. Actual damages, the exact amount of which has yet to be ascertained;
3. Punitive damages;
4. Attorneys' fees;
5. Prejudgment interest;
6. Costs; and
7. Any such further relief as the court deems just and proper.

DATED: November 2, 2018 ELKINS KALT WEINTRAUB REUBEN
GARTSIDE LLP

By: /s/ Julie Z. Kimball
JULIE Z. KIMBALL
Attorneys for Plaintiff David A. Poms

DEMAND FOR JURY TRIAL

Plaintiff David A. Poms hereby demands a trial by jury.

DATED: November 2, 2018 ELKINS KALT WEINTRAUB REUBEN
GARTSIDE LLP

By: /s/ Julie Z. Kimball
JULIE Z. KIMBALL
Attorneys for Plaintiff David A. Poms, as
Trustee for the David A. Poms Family Trust

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